

Senate Bill No. 1474

Passed the Senate August 30, 2012

Secretary of the Senate

Passed the Assembly August 27, 2012

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2012, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 781 and 923 of the Penal Code, relating to grand jury proceedings.

LEGISLATIVE COUNSEL'S DIGEST

SB 1474, Hancock. Grand jury proceedings: Attorney General: powers and duties.

Existing law authorizes the Attorney General to convene the grand jury to investigate and consider certain criminal matters. The Attorney General is authorized to take full charge of the presentation of the matters to the grand jury, issue subpoenas, prepare indictments, and do all other things incident thereto to the same extent as the district attorney may do. Existing law authorizes the Attorney General to impanel a special grand jury to investigate, consider, or issue indictments for specified activities relating to Medi-Cal fraud.

This bill also would authorize the Attorney General to convene a special statewide grand jury, as prescribed, for cases involving fraud or theft that occur in more than one county and were conducted by a single defendant or multiple defendants acting in concert.

The people of the State of California do enact as follows:

SECTION 1. Section 781 of the Penal Code is amended to read:

781. Except as provided in Section 923, when a public offense is committed in part in one jurisdictional territory and in part in another, jurisdictional territory or the acts or effects thereof constituting or requisite to the consummation of the offense occur in two or more jurisdictional territories, the jurisdiction for the offense is in any competent court within either jurisdictional territory.

SEC. 2. Section 923 of the Penal Code is amended to read:

923. (a) Whenever the Attorney General considers that the public interest requires, he or she may, with or without the concurrence of the district attorney, direct the grand jury to convene

for the investigation and consideration of those matters of a criminal nature that he or she desires to submit to it. He or she may take full charge of the presentation of the matters to the grand jury, issue subpoenas, prepare indictments, and do all other things incident thereto to the same extent as the district attorney may do.

(b) Whenever the Attorney General considers that the public interest requires, he or she may, with or without the concurrence of the district attorney, petition the court to impanel a special grand jury to investigate, consider, or issue indictments for any of the activities subject to fine, imprisonment, or asset forfeiture under Section 14107 of the Welfare and Institutions Code. He or she may take full charge of the presentation of the matters to the grand jury, issue subpoenas, prepare indictments, and do all other things incident thereto to the same extent as the district attorney may do. If the evidence presented to the grand jury shows the commission of an offense or offenses for which venue would be in a county other than the county where the grand jury is impaneled, the Attorney General, with or without the concurrence of the district attorney in the county with jurisdiction over the offense or offenses, may petition the court to impanel a special grand jury in that county. Notwithstanding any other law, upon request of the Attorney General, a grand jury convened by the Attorney General pursuant to this subdivision may submit confidential information obtained by that grand jury, including, but not limited to, documents and testimony, to a second grand jury that has been impaneled at the request of the Attorney General pursuant to this subdivision in any other county where venue for an offense or offenses shown by evidence presented to the first grand jury is proper. All confidentiality provisions governing information, testimony, and evidence presented to a grand jury shall be applicable, except as expressly permitted by this subdivision. The Attorney General shall inform the grand jury that transmits confidential information and the grand jury that receives confidential information of any exculpatory evidence, as required by Section 939.71. The grand jury that transmits information to another grand jury shall include the exculpatory evidence disclosed by the Attorney General in the transmission of the confidential information. The Attorney General shall inform both the grand jury transmitting the confidential information and the grand jury receiving that information of their duties under Section 939.7. A

special grand jury convened pursuant to this subdivision shall be in addition to the other grand juries authorized by this section, this chapter, or Chapter 2 (commencing with Section 893).

(c) Whenever the Attorney General considers that the public interest requires, he or she may, with or without the concurrence of the district attorney, impanel a special statewide grand jury to investigate, consider, or issue indictments in any matters in which there are two or more activities, in which fraud or theft is a material element, that have occurred in more than one county and were conducted either by a single defendant or multiple defendants acting in concert.

(1) This special statewide grand jury may be impaneled in the Counties of Fresno, Los Angeles, Sacramento, San Diego, or San Francisco, at the Attorney General's discretion. When impaneling a special statewide grand jury pursuant to this subdivision, the Attorney General shall use an existing regularly impaneled criminal grand jury within the period of its regular impanelment to serve as the special statewide grand jury and make arrangements with the grand jury coordinator in the applicable county, or with the presiding judge or whoever is charged with scheduling the grand jury hearings, in order to ensure orderly coordination and use of the grand jurors' time for both regular grand jury duties and special statewide grand jury duties. Whenever the Attorney General impanels a special statewide grand jury, the prosecuting attorney representing the Attorney General shall inform the special statewide grand jury at the outset of the case that the special statewide grand jury is acting as a special statewide grand jury with statewide jurisdiction.

(2) For special statewide grand juries impaneled pursuant to this subdivision, the Attorney General may issue subpoenas for documents and witnesses located anywhere in the state in order to obtain evidence to present to the special statewide grand jury. The special statewide grand jury may hear all evidence in the form of testimony or physical evidence presented to the special statewide grand jury, irrespective of the location of the witness or physical evidence prior to subpoena. The special statewide grand jury impaneled pursuant to this subdivision may indict a person or persons with charges for crimes that occurred in counties other than where the special statewide grand jury is impaneled. The indictment shall then be submitted to the court in any county in

which any of the charges could otherwise have been properly brought. The court where the indictment is filed under this subdivision shall have proper jurisdiction over all counts in the indictment.

(3) Notwithstanding Section 944, an indictment found by a special statewide grand jury convened pursuant to this subdivision and endorsed as a true bill by the special statewide grand jury foreperson, may be presented to the court, as set forth in paragraph (2), solely by the Attorney General and within five court days of the endorsement of the indictment. For indictments presented to the court in this manner, the Attorney General shall also file with the court or court clerk, at the time of presenting the indictment, an affidavit signed by the special statewide grand jury foreperson attesting that all the jurors who voted on the indictment heard all of the evidence presented by the Attorney General, and that a proper number of jurors voted for the indictment pursuant to Section 940. The Attorney General's office shall be responsible for prosecuting an indictment produced by the special statewide grand jury.

(4) If a defendant makes a timely and successful challenge to the Attorney General's right to convene a special statewide grand jury by clearly demonstrating that the charges brought are not encompassed by this subdivision, the court shall dismiss the indictment without prejudice to the Attorney General, who may bring the same or other charges against the defendant at a later date by way of another special statewide grand jury, properly convened, or a regular grand jury, or by any other procedure available.

(5) The provisions of Section 939.71 shall apply to the special statewide grand jury.

(6) Unless otherwise set forth in this section, a law applying to a regular grand jury impaneled pursuant to Section 23 of Article I of the California Constitution shall apply to a special statewide grand jury unless the application of the law to a special statewide grand jury would substantially interfere with the execution of one or more of the provisions of this section. If there is substantial interference, the provision governing the special statewide grand jury will govern.

(d) Upon certification by the Attorney General, a statement of the costs directly related to the impanelment and activities of the

grand jury pursuant to subdivisions (b) and (c) from the presiding judge of the superior court where the grand jury was impaneled shall be submitted for state reimbursement of the costs to the county or courts.

Approved _____, 2012

Governor